IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

WP(C).No. 15552 of 2007(B)

AGAINST THE ORDER DATED 07/04/2007 IN IA 434/06 IN OS.256/1999 of ADL.SUB COURT, THALASSERY

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PETITIONER:

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1. P.KRISHNAKUMAR,
   S/O.LATE KERALA VARMA RAJA,
   "SUDHA NILAYAM" WEST OF CHIRAKKAL
   CHIRA P.O., CHIRAKKAL, KANNUR DISTRICT.

2. P.BALACHANDRA KURUP, RETIRED HEADMASTER,
   "ARMTHIKA", VISHNUMANGALAM, P.O.HARIPURAM,
   KASARAGOD DISTRICT.

BY ADV. SRI.K.SHRIHARI RAO
SMT.N.SHOBHA

RESPONDENTS:

M.BALAKRISHNAN NAMBIAR,
S/O.LATE K.K.KUNHIKANNAN NAMBIAR,
CHEERATH HOUSE, (PUTHIYADAM),
P.O.CHIRAKKAL, KANNUR DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE AFFIDAVIT IN SUPPORT OF I.A.NO:434/06 IN O.S.NO:256/99 ON THE FILE OF THE SUBORDINATE JUDGES COURT, THALASSERY

EXT.P2: -DO- OF THE ORDER DT.7.4.2007 IN I.A.NO:434/06 IN O.S.256/99 ON THE FILE OF THE SUBORDINATE JUDGE'S COURT, THALASSERY

EXT.P3: -DO- OF THE DECREE DT.22.12.2002 IN O.S.NO:186/99 ON THE FILE OF THE MUNSIFF'S COURT, PAYYANNUR

EXT.P4: -DO- OF THE E.P.NO:54/03 IN O.S.NO:186/99 ON THE FILE OF THE MUNSIFF;S COURT, PAYYANNUR

EXT.P5: -DO- OF THE PETITION IN REP 55/1966 IN O.S.7/1946 ON THE FILE OF THE SUB COURT, TELLICHERRY

EXT.P6: -DO- OF THE PETITION IN REP NO:55/1966 IN O.S.7/1946 ON THE FILE OF SUB COURT, TELLICHERRY

EXT.P7: TIMING OF THE ACCOUNT IN REP 55/1946 IN O.S.7/1946 ON THE FILE OF SUB COURT, TELLICHERRY

jj /TRUE COPY/

P.A. TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 15552 OF 2007 B

Dated this the 3rd August, 2007.

JUDGMENT

This writ petition is filed to set aside the order of the Subordinate Judge, Thalassery in I.A.434/06 whereby the court rejected the prayer to dispauper the indigent in O.S.256/99. I am informed that the suit is one for damages for an amount of Rs.9 lakhs. The petitioner therein was permitted to sue as an indigent person. Subsequently the respondent therein produced documents to show that as per a decree of the civil court the petitioner has come into possession of the property and therefore he should be directed to pay court fee. A perusal of the order of the court below would show that he had received 1 acre of land as a co-owner and the valuation of the property is Rs.28,500/- and further he is only entitled to one out of 10 shares in the property. If the said calculation is followed then the share value will come to Rs.3,000/-. Whatever it may be, the suit is one for realisation of Rs.9 lakhs where huge court fee has to be paid. So there are no sufficient materials to hold that there is reasonable and sufficient means for the person to pay court fee at this stage. Therefore, the order passed by the court below does

not suffer from any infirmity or illegality which requires interference. Writ petition is dismissed.

M.N.KRISHNAN
Judge

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